TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 1243 - SB 1107

February 28, 2017

SUMMARY OF BILL: Increases the gasoline tax rate from $0.20 to $0.25 per gallon, and the diesel tax rate from $0.17 to $0.26 per gallon, both rates to be further increased annually based on the rate of inflation and the state's population growth rate. Requires all revenue generated from the tax increases be allocated to the Highway Fund.

Deletes the local gasoline tax option, codified in Tennessee Code Annotated Chapter 67, Title 3, Part 10, which authorized municipalities and counties to levy a local gasoline tax of $0.01 per gallon to fund public transportation systems.

Authorizes any county to levy, by resolution of its county legislative body, a privilege tax not to exceed $0.03 per gallon on all gasoline sold and delivered to a retail station in the county.

Authorizes any county or municipality to levy, by resolution or ordinance approved by its legislative body, a transportation improvement surcharge in connection with any property taxes, sales and use taxes, or severance taxes tax authorized to be levied by the county or municipality. Prohibits the rate of any such surcharge from separately exceeding the maximum rate established for the corresponding taxes.

Requires that in any fiscal year in which the total state sales and use tax revenue derived from within the boundaries of a transportation services district, as defined by this bill, exceeds the state sales and use tax revenue estimate for that fiscal year from within the district, the amount of surplus revenue is distributed to any eligible county, upon approval of an application, in an amount equal to that portion of the surplus revenue derived from the sale of goods, products, and services within that eligible county.

Increases motor vehicle registration fees for passenger motor vehicles and motor homes, form $18.75 to $23.75. Increases registration fees for private and commercial motor vehicles operating for hire who transport passengers by $10.00 each. Increases registration taxes for trucks and truck tractors by $20.00 each.

Extends the open container law to passengers in a motor vehicle. Excludes passengers in vehicles for hire, or in the living quarters of a motor home, truck camper, house trailer, or passengers in a vehicle being operated by a chauffeur.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – $297,189,600/Highway Fund
$612,600/General Fund
$111,000/Motor Vehicle Account

A permissive recurring increase in local government revenue of up to $102,660,000 as a result of the authorization for counties to impose a privilege tax of up to $0.03 per gallon on all gasoline sold and delivered to a retail station in the county.

Subsequent increases in state and local government revenue and state and local government expenditures are possible as a result of the Act's authorization for local governments to impose tax surcharges upon voters' approval to property taxes, sales and use taxes, or severance taxes, and as a result of future tax rate inflation-adjusted increases. Such subsequent fiscal impacts cannot be determined with reasonable certainty and are not accounted for in this fiscal analysis.

Pursuant to 23 CFR Part 1270, $19,210,000 of the federal funds apportioned to the state under the National Highway Performance Program and the Surface Transportation Block Grant Program is currently used for alcohol-impaired driving programs ($11,718,100) and highway safety improvement programs ($7,491,900). The open container law change will result in a shift of $11,718,100 in federal funding from the Highway Safety Office to the Department of Transportation (TDOT). TDOT will be authorized to use the entire $19,210,000 on highway construction projects. To the extent the state elects to continue existing programs that are funded by such funds, an additional state appropriation will be required.

Secondary economic impacts may occur as a result of this bill. Due to multiple unknown factors, fiscal impacts directly attributable to such secondary impacts cannot be quantified with reasonable certainty.

Assumptions related to the gasoline tax:

- The current Fiscal Review Committee staff estimate for gasoline tax collections in FY17-18 is $684,400,000. This number is assumed to remain constant in subsequent years under current law.
- Increasing the gasoline tax rate by $0.05 per gallon, from $0.20 to $0.25, is estimated to result in a recurring increase in gasoline tax revenue to the Highway Fund of $171,100,000 [($684,400,000 / $0.20) x $0.05].
- Quantity demanded for gasoline will not decrease significantly as a result of the gasoline tax rate increase.
- Deleting the local gasoline tax option, which authorized counties and municipalities to levy a local gasoline tax of $0.01 per gallon to fund public transportation systems, will not result in a significant impact to local revenue as no local government has used this authority.

Assumptions related to the diesel tax:

- The current Fiscal Review Committee staff estimate for motor fuel tax collections in FY17-18 is $183,300,000. Based on historical collection patterns, 99 percent, or $181,467,000, of total motor fuel tax collections is estimated to be revenue from the $0.17 diesel tax. This number is assumed to remain constant in subsequent years under current law.
- Increasing the diesel tax rate by $0.09 per gallon, from $0.17 to $0.26, is estimated to result in a recurring increase in diesel tax revenue to the Highway Fund of $96,070,765 [($181,467,000 / $0.17) x $0.09].
- Quantity demanded for diesel fuel will not decrease significantly as a result of the diesel tax rate increase.

Assumptions related to motor vehicle registrations and total impact to Highway Fund:

- Based on data provided by the DOR, it is estimated that there are approximately 4,980,955 motor vehicles whose registration fees will increase by $5.00 pursuant to this Act, 5,076 vehicles whose registration fees will increase by $10.00 pursuant to the Act, and 283,796 vehicles whose registration fees will increase by $20.00 pursuant to the Act.
- The recurring increase in state revenue is estimated to be $30,631,455 [(4,980,955 x $5.00) + (5,076 x $10.00) + (283,796 x $20.00)].
- Pursuant to Tenn. Code Ann. § 55-6-107(a), 98 percent of this revenue, or $30,018,826 ($30,631,455 x 98.0%), will be allocated to the Highway Fund and 2 percent, or $612,629 ($30,631,455 x 2.0%), will be allocated to the General Fund.
- Pursuant to Tenn. Code Ann. § 55-4-113(b), a 2.50 percent safety inspection fee is imposed upon vehicle registration taxes for certain freight motor vehicles registered pursuant to Tenn. Code Ann. § 55-4-113. These funds are allocated to the Department of Safety's Motor Vehicle Account.
- The safety inspection fee is estimated to apply to 222,000 vehicles; the resulting recurring increase in revenue to the Motor Vehicle Account is estimated to be approximately $111,000 (222,000 x $20.00 x 2.50%).
- The total recurring increase in revenue to the Highway Fund as a result of this bill is estimated to be $297,189,591 ($171,100,000 + $96,070,765 + $30,018,826).

Assumptions related to the local option privilege tax on gasoline:

- The precise fiscal impact of the authorization for counties to impose a privilege tax of up to $0.03 per gallon on all gasoline sold and delivered to a retail station in the county is difficult to estimate with reasonable certainty as it is dependent on multiple unknown factors, such as the number of counties that will levy the additional tax, the magnitude and timing of any such levy, and the taxable gasoline base in any county that levies the tax.
- However, if all counties imposed the maximum tax of $0.03 per gallon, the permissive recurring increase in local revenue is estimated to be $102,660,000 [($684,400,000 total gasoline collection / $0.20 gasoline tax rate) x $0.03 additional local privilege tax].

Assumptions related to the open container law:

- Pursuant to the Code of Federal Regulations, Title 23, Chapter II, Subchapter D, Part 1270, if a state has not enacted or is not enforcing a law that complies with the federal open container requirements, 2.5 percent of the federal funds apportioned to the state under the National Highway Performance Program (NHPP) and the Surface Transportation Block Grant Program (STBGP) shall be reserved to be used for alcohol-impaired driving programs and highway safety improvement programs.
- The State of Tennessee's current open container law does not comply with the federal requirements. As a result, for the last 14 years, a portion of the state's federal NHPP and STBGP funding has been reserved and required to be used for abovementioned purposes.
- Out of the total amount of reserved funds of approximately $19,210,000, $7,491,900 is currently used by the Tennessee Department of Transportation (TDOT) on safety improvement programs; the remaining $11,718,100 is used by the Tennessee Highway Safety Office (THSO) for alcohol impaired driving programs, including, but not limited to, funding for 54 DUI prosecution positions (approximately $4,900,000), funding for state and local law enforcement agencies for alcohol countermeasure programs including overtime (approximately $3,700,000), and funding for impaired driving media campaigns (approximately $2,800,000).
- The proposed bill intends to bring the state's open container law in compliance with the federal requirements. The National Highway Traffic Safety Administration has not yet commented on whether the proposed language will accomplish that intent; however, for the purposes of this fiscal analysis, it is assumed that this bill will place the state in compliance with all federal open container regulations.
- As a result, federal funding in the amount of 2.5 percent of the state's NHPP and STBGP apportionment will no longer be reserved and required to be used for alcohol-impaired driving programs and highway safety improvement programs.
- There will be a recurring shift of funding of $11,718,100 from THSO to TDOT, and TDOT will utilize the entire $19,210,000 for highway construction projects.
- To the extent the state elects to continue existing programs that are funded by reserved funds, an additional state appropriation will be required.
- A violation of the open container law is a Class C misdemeanor, punishable by fine only.
- Extending the open container prohibition to include motor vehicle passengers could result in additional violations of the law, and additional fine revenue to the state and local government.
- However, to the extent that funding is reduced for state and local DUI enforcement as a result of this bill, the rate of DUI convictions could decrease. The District Attorneys General Conference reports that a study on the efficacy of specialized DUI prosecutors in 2007 indicated there was a 21 percent increase in DUI conviction rates when a specialized prosecutor handled a case as opposed to a non-specialized prosecutor.
- Therefore, the net impact on state and local revenue and expenditures associated with DUI enforcement cannot be determined with reasonable certainty.

Assumptions related to the local surcharge, transfer of surplus sales tax revenue, and secondary impacts:

- Authorizing local governments to levy a transportation improvement surcharge in connection with any property taxes, sales and use taxes, or severance taxes, could result in a significant increase in local government revenue.
- Due to multiple unknown factors, such as the number of local governments that will elect to levy a surcharge, the timing of any such levy, the type and magnitude of levied surcharges, and the taxable base for any surcharge, a precise fiscal estimate cannot be determined with reasonable certainty.
- Requiring a transfer of surplus state sales tax revenue, equal to the difference between the state's estimate of sales tax revenue and actual collections of such revenue in an eligible county within a transportation services district, will result in an increase in local government revenue and a corresponding decrease in state revenue.
- Due to multiple unknown factors, such as future state sales tax collections from any such county and the specific budgeted estimates of state sales tax collections for each county, a precise fiscal estimate cannot be determined with reasonable certainty. The state currently estimates total sales tax collections for the state and does not set estimates for each county.
- Some portions of tax increases would have been spent in the economy on sales-taxable goods and services in the absence of this bill. Due to multiple unknown factors, any recurring decreases to state and local sales tax revenue cannot be determined with reasonable certainty and are not accounted for in this fiscal analysis.
- There will be subsequent increases in state revenue to the Highway Fund as a result of future annual gasoline and diesel tax rate inflation and population adjustments. Fiscal impacts of any such subsequent tax rate increases are not accounted for in this fiscal analysis.
- Secondary economic impacts may occur as a result of this bill. Due to multiple unknown factors, fiscal impacts directly attributable to such secondary impacts cannot be quantified with reasonable certainty.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee

Krista M. Lee, Executive Director

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